

**Council of the Trust and Estate Section of the Colorado Bar Association**

**Notice of and Agenda for the September 7, 2022, Meeting**

To: Council Members  
Trust and Estate Section of the Colorado Bar Association

From: Dylan Metzner  
Secretary/Treasurer  
1675 Broadway, 26<sup>th</sup> Floor  
Denver, CO 80202  
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**Notice of Meeting**

The next monthly meeting of the 2022-2023 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Wednesday, September 7, 2022, 3:15 p.m.***

Place: 1290 Broadway, Suite 1700, Denver, CO 80203 Room West 1  
or Call-In/Zoom

<https://cba-cle.zoom.us/j/83843741966?pwd=NXVOTEExdUxuQ0FrV0VXV3ZrU3hVQT09>

Meeting ID: 838 4374 1966

Passcode: 534100

Call-in: 16694449171

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**Minutes of Previous Meetings & Attachments**

1. Minutes of the August 3, 2022 meeting of the Council
2. Slate of Liaisons to other CBA Sections
3. July 31, 2022 Financial Statements
4. Memorandum regarding the August 16, 2022 CBA Real Estate Section Council Meeting
5. Statutory Revisions Committee Lodged Wills Packet
  - a. SRC Approved Version
  - b. Current Statute vs. SRC Approved Version
  - c. Current Statutes

**Trust and Estate Section Council Agenda  
September 7, 2022**

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise his/her prerogative to limit the time for any report or discussion on a topic to ten (10) minutes. This conforms to Robert's Rules of Order.

1. Review/approval of Minutes of the May 4, 2022 meeting of the Council
2. Review/approval of Slate of Liaisons to other CBA Sections
3. Chair's Report and Administrative Matters (Molly Zwerdlinger)
4. Secretary/Treasurer's report (Dylan Metzner)
5. Tax Section Liaison (Georgine M. Kryda)
6. Elder Law Section (Patrick Thiessen)
7. Real Estate Section Liaison (Chad Rounds)
8. Family Law Section Liaison (Kim Willoughby)
9. Statutory Revisions Committee (Jonathan Haskell)
10. Legislative Liaison (Darla Daniel & Steve Brainerd)
11. Legislative Update (Tyler Mounsey)
12. Council Notes (Kristin Dittus)
13. CLE/Estate Planning Retreat (Lauren da Cunha)
14. Orange Book Forms Committee (Rikke Liska)
15. Supreme Court's Rules and Forms Committee (Leia Ursury)
16. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
17. Equity, Diversity, and Inclusivity Committee (Amber Marchlowska)
18. Probate Trial and Procedures Committee (Marcie McMinimee & Lindsay Andrew)

19. Colorado Estate Planning Handbook (David Johns)
20. Green Book (Josie Faix)
21. Trust & Estate Practice Support Committee (Jessica Hazleton)
22. The Colorado Lawyer (Emily Bowman & David Kirch)
23. Communications Representative/Ambassador Program (Lindsay Andrew)
24. Board of Governors Representative (Jonathan Haskell)
25. Miscellaneous/FYI
26. Adjournment

**Council of the Trust and Estate Section of the Colorado Bar Association  
Minutes of the August 3, 2022, Meeting**

Council met on Wednesday, August 3, 2022 in person and via audio-conference. The meeting was called to order at approximately 3:16 p.m. by Molly Zwerdinger, Chair.

The following member of Council participated by Zoom/phone or in-person and constituted a quorum:

In attendance were:

Molly Zwerdinger, Chair  
Lauren da Cunha, Vice Chair  
Dylan Metzner, Secretary/Treasurer  
Kristin Piñeiro (2<sup>nd</sup> year member)  
Marianne Luu-Chen (2<sup>nd</sup> year member)  
Tristan Younghaus (2<sup>nd</sup> year member)  
Lindsay Andrew (1<sup>st</sup> year member)  
Kelianne Chamberlain (1<sup>st</sup> year member)  
(1<sup>st</sup> year member)  
Tim Bounds, (Immediate Past Chair)

Also in attendance were:

Emma Baxter, CBA Staff  
Tyler Mounsey, CBA Legislative Liaison  
Amber Marchlowska  
Jennifer Hazelton  
Sandra Sigler  
Rikke Liska  
Chad Rounds  
Jonathan Haskell  
Leia Ursury  
Patrick Thiessan  
Kristin Dittus

**1. Review/approval of May 4, 2022 Minutes of the Annual Meeting of the Trust and Estate Section.**

The minutes were approved unanimously

**2. Review/approval of Minutes of the May 4, 2022 meeting of the Council**

The minutes were approved unanimously

### **3. Chair's Report and Administrative Matters (Molly Zwerdlinger)**

1<sup>st</sup> Year Council Member Opening. Jessica Enggasser Johnson (1<sup>st</sup> year Council member) provided the Chair with notice that she is unable to serve on as a Council member. Article III, § 5 of the Trust and Estate Section of the Colorado Bar Association Bylaws Restated as of April 18, 2002, as amended April 2008, June 2018 and February 2019, provides that "The Council, during the interim between annual meetings of the Section, may fill vacancies in its membership or in the offices of the Section; provided, however, the office of Chair shall be filled automatically by the Vice Chair."

Between now and the September Council meeting, Officers and Council members will think of someone to fill in this position.

### **4. Secretary/Treasurer's report (Dylan Metzner)**

The August Agenda did not include an item on voting on the appointment/confirmation of liaisons to other CBA Sections. The September Agenda will include a Slate of Liaisons to other CBA Sections as well as an item on voting on the appointment/confirmation of that Slate.

Most recent financials are May 31, 2022. In May our expenditures for \$1,077.96 for the Administration Fee and \$11,000 in Grants/Contributions (\$3,500 of which was to sponsor a table at the annual Colorado Bar Foundation Fellows Dinner and \$7,500 was contributed to the Estate Planning Retreat). We had an Ending Balance of \$44,080.12 which is an increase of \$6,248.31 over last year's ending balance.

We are waiting for financials including July entries which is the month in 2021 when most dues came in. The Treasurer would like to wait until he sees July dues revenue before preparing a draft budget. However, given our current balance the Treasurer thinks it appropriate to consider budgetary requests that came in from T&E Committees.

Council received the following budgetary requests from the following Committees:

- *Equity, Diversity and Inclusivity Committee*: Requests \$1,000 which will be used for EDI to focus on building relationships with other diverse Sections of the Bar. Approximately \$500 would be used towards purchasing tables at two diverse bar association dinners (EDI will fundraise to cover the rest of the cost of tables) and \$500 will be dedicated to law student events. EDIC Chair Amber Marchlowska reported on behalf of the EDIC. T&E Section would have recognition at these events and increasing visibility to the Section for law students.

Council voted and unanimously approved EDIC's request for \$1,000.

- *T&E Practice Support Committee*: Committee is interested in offering CBA membership to next Chair of the Committee as an incentive. T&E Practice Support Committee Chair Jennifer Hazelton reported on behalf of the Committee.

Council did not vote on approving this request. Rather, Council member, Lindsay Andrew, will reach out to potential candidates (copying Chair, Molly Zwerdinger, and Chair of the Practice Support Committee, Jennifer Hazelton) who may be interested in succeeding Jennifer as Chair of the Committee. Council will use its collective efforts to find a successor Chair and Jennifer will be willing to assist in the transition.

- *Civic and Community Affairs Joint Committee of the Elder Law Section*<sup>1</sup>: Committee requests \$3,500 for the 2023 Senior Law Handbook, this is separate from the 2022 Supplement. Sandra Sigler reported on behalf of the Committee.

Immediate Past Chair, Tim Bounds, reported that Council approved for \$2,500 in 2019 for that year's Senior Law Handbook.

Council voted and unanimously approved the Committee's request of \$3,500 to be put towards the 2023 Senior Law Handbook.

#### **5. Tax Section Liaison (Georgine M. Kryda)**

No report.

#### **6. Elder Law Section (Patrick Thiessen)**

Elder law retreat will be 8/25 through 8/27 there is still space and hotel rooms available. There will also be a special discussion on Saturday discussing practice support topics for Women and every attendee is encouraged to attend this discussion.

#### **7. Real Estate Section Liaison (Chad Rounds)**

Real Estate Section Council last met in June. A new law was signed by governor that takes effect this month allowing the release of deeds of trusts by individuals without the presentation of the original promissory note.

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<sup>1</sup> This request was made under Agenda Item 16 *Civic and Community Affairs Joint Committee of the Elder Law Section*; however, Secretary choose to include all budget requests received during the August Meeting in the same section of the Minutes.

**8. Family Law Section Liaison (Kim Willoughby)**

No report.

**9. Statutory Revisions Committee (Jonathan Haskell)**

SRC voted to move forward with the Lodged Wills Subcommittee's recommendation. Jonathan will present this recommendation to Council in September.

**10. Legislative Liaison (Darla Daniel & Steve Brainerd)**

**11. Legislative Update (Tyler Mounsey)**

The Legislature will be working on a Judicial Discipline bill this session. An interim committee was established by SB22-201 to investigate and take public comments with respect to this bill. The interim committee had their first meeting and will be meeting again through September. If anyone would like to testify or participate please reach out to Tyler. The interim committee will be having conversations and it is anticipated they will be recommending three pieces of legislation at September meeting.

Looking towards next session- now is the time to include Tyler in anything Section would like to get in front of the legislature for the next session.

**12. Council Notes (Kristin Dittus)**

Chad Rounds provided an Article for September's issues. Council is working on getting Committee updates for the September issue. Please reach out to Kristin if any ideas for a December Article.

**13. CLE/Estate Planning Retreat (Lauren da Cunha)**

Lunch CLEs are planned through April and there is tentative topic for May, which would be this years last Lunch CLE.

The Retreat (Santa Fe June 8-10<sup>th</sup>) the Committee is considering going back to pre-pandemic format.

**14. Orange Book Forms Committee (Rikke Liska)**

Committee has several subcommittees working on amendments to forms. Some of the review is taking extra time because the review will be of several forms that are related and committees are finalizing a chunk of forms prior to review. The committee continues to move forward to review forms focusing on finalizing a quality product.

**15. Rules and Forms Committee (Gordon Williams)**

This Committee may have been subsumed by Supreme Court's Rules and Forms Committee. Dylan will reach out to Gordon to determine whether he would like us to keep this on the agenda.

Council will add an agenda item for the Supreme Court's Rules and Forms Committee. Leia Ursery will update Council as necessary with respect to updates from the Supreme Court's Rules and Forms Committee.

**16. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)**

Budget request made and approved as reflected in Item 4 above. The 18<sup>th</sup> Judicial District Senior Law and Safety Summit was held in May and was a success. Grand Junction also had a wonderful Senior Law Series which ran between April and May. There will be an in-person event in Boulder in August and another in-person event in El Paso County in September.

The new Probate in Colorado pamphlet will be presented to Council at the September 7<sup>th</sup> meeting.

The Civic and Community Affairs Committee meets at 1:30pm on Probate Day with a Hybrid Option. Participation (even partial participation) is encouraged.

**17. Equity, Diversity, and Inclusivity Committee (Amber Marchlowska)**

EDIC had a great first meeting to discuss a major project that is continuing to be implemented which will strengthen the connection with the community at DU and to get in the door at CU. Starting to expand relationships with other diverse sections and committees of the CBA.

**18. Probate Trial and Procedures Committee (Marcie McMinimee & Lindsay Andrew)**

Good first meeting. Chairs report was a discussion around the 5/26/2022 Case *In re Estate of Garcia*, 2022 COA 58. No. 21CA0363 new slayer statute case. Everyone gave committee reports with lively discussion regarding the Bench Book. A discussion was had as to whether there is a way that the Bench Book can be available to attorneys as apparently Bench Books in other areas of the law have been circulated to attorneys after obtaining CBA/CLE approval. The Committee will investigate this further.

**19. Colorado Estate Planning Handbook (David Johns)**

No report.

**20. Green Book (Josie Faix)**

No report.

**21. Trust & Estate Practice Support Committee (Jessica Hazleton)**

Participation in this Committee is strong, there have been consistently 10-20 participants in the calls and meetings. Council will assist in finding a successor Chair to Jessica, who has done a wonderful job as Chair, and who will assist with the transition.

**22. The Colorado Lawyer (Emily Bowman & David Kirch)**

**23. Communications Representative/Ambassador Program (Lindsay Andrew)**

Council will assist in finding a successor Chair to Lindsay, who has done a wonderful job as Chair, and who will assist with the transition.

**24. Board of Governors Representative (Jonathan Haskell)**

The summer meeting was very eventful including significant discord over the presidential rotation rules which greatly favor the Denver Metro region over other areas of the state. A working group was created to address this issue and propose alternate systems to better represent the entire state with respect to the presidency.

Other informational items from the meeting included: Court of Appeals has some judge shortages; 60% of testimony at Capital was Remote; most significant bill coming this legislative session is the Judicial Discipline Bill; active attorney registration is slowing down; in-house counsel positions represent the largest gain in attorneys and solo practitioners make of the largest demographic of attorneys at 22%.

Also keep in mind that the Waterman Fund is available for Colorado attorneys. Financial awards from the Fund are made "...for the sole and only purpose of relieving the financial necessities, assuaging the hardships and lightening the financial burdens of

aged, infirm or otherwise incapacitated members of the Colorado bar, in good repute and standing, and who shall have practiced law in Colorado for a period of at least 10 years...." All information about applicants and awards are confidential. Please direct your questions or a completed Application to Lori Krupske at 303-824-5331 or [lkrupske@cobar.org](mailto:lkrupske@cobar.org).

## **25. Other Business**

Sandra Siegler- Colorado Guardianship Association (Sandra is President) has presentations every other month. Currently virtual but Hybrid by November. September 13<sup>th</sup> at 9am meeting with an hour presentation on LGBTQ Estate Planning. Anyone who would like to attend get a hold of Sandra. Meeting is bi-monthly (second Tuesday of every other month). Not affiliated with the CBA but Sandra will put this on the List Serve as another learning opportunity.

## **ADJOURNMENT**

The meeting was adjourned at 4:20 p.m. The next Council meeting will be held September 7, 2022.

Respectfully submitted

/s/ Dylan Metzner, Secretary

## Trust and Estate Section 2022-2023 Slate of Liaisons to Other CBA Sections

### Family Law Section Liaison:

Kimberly R. Willoughby  
Willoughby & Associates  
25188 Genesee Trail Road, Suite 150  
Golden, Colorado 80401  
Telephone: (303) 839-1770  
Email: [kim@willoughbylaw.com](mailto:kim@willoughbylaw.com)

### Elder Law Section Liaison:

Patrick R. Thiessen  
Frie, Arndt & Danborn P.C.  
7400 Wadsworth Boulevard, Suite 201  
Arvada, Colorado 80003  
Telephone: (303) 420-1234  
Email: [prthiessen@frieand.com](mailto:prthiessen@frieand.com)

### Real Estate Section Liaison:

Charles E. Rounds  
Kirch Rounds & Bowman PC  
3131 S. Vaughn Way, Suite 200  
Aurora, Colorado 80014  
Telephone: (303) 671-7726  
Email: [crounds@dwkpc.net](mailto:crounds@dwkpc.net)

### Tax Section Liaison:

Aaron Burton  
Wade Ash Woods Hill & Farley, P.C.  
4500 Cherry Creek Drive South, Suite 600  
Denver, Colorado 80246  
Telephone: (303) 322-8943  
Email: [aburton@wadeash.com](mailto:aburton@wadeash.com)

### Legislative Liaison

Stephen M. Brainerd  
Davis Graham & Stubbs  
1550 17<sup>th</sup> Street, Suite 500  
Denver, Colorado 80202  
Telephone: (303) 892-7481  
Email: [steve.brainerd@dgsllaw.com](mailto:steve.brainerd@dgsllaw.com)

Colorado Bar Association  
**Trust & Estate**  
 For the Month Ending July 31, 2022

		<u>July</u>	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>	<u>%</u>	<u>Last FY</u>
<b>Beginning balance</b>	<b>01-3160-31600</b>		<b>\$43,092.16</b>		<b>\$43,092.16</b>	<b>0%</b>	<b>\$37,066.81</b>
<b>Trust &amp; Estate Section</b>							
<b>Revenue</b>							
Dues Income Section	01-4050-31600	17,880.00	17,880.00		17,880.00	0%	25,995.00
<b>Total Revenue Trust &amp; Estate Sect</b>		<b>17,880.00</b>	<b>17,880.00</b>		<b>17,880.00</b>	<b>0%</b>	<b>25,995.00</b>
<b>Expenses</b>							
Administration Fee	01-5494-31600	(1,110.38)	(1,110.38)		(1,110.38)	0%	(1,077.96)
<b>Total Expenses Trust &amp; Estate Sec</b>		<b>(1,110.38)</b>	<b>(1,110.38)</b>		<b>(1,110.38)</b>	<b>0%</b>	<b>(1,077.96)</b>
<b>Statutory Revisions Committee</b>							
<b>Revenue</b>							
<b>Rev. Elderlaw Joint Task Force</b>							
<b>Rev. Uniform POA Act</b>							
<b>Rev. Uniform Trust Code</b>							
<b>Expenses</b>							
<b>Exp. Elderlaw Joint Task Force</b>							
<b>Exp. Uniform POA Act</b>							
<b>Exp. Uniform Trust Code</b>							
<b>CLE</b>							
<b>Revenue</b>							
<b>Revenue Joint CLE</b>							
<b>Revenue CLE Retreat</b>							
<b>Revenue CLE Section Only</b>							
<b>Expenses</b>							

Colorado Bar Association  
**Trust & Estate**  
 For the Month Ending July 31, 2022

	July	YTD	Budget	Variance	%	Last FY
<b>Expenses Joint CLE</b>						
Expenses CLE Retreat						
Expenses CLE Section Only						
<b>Council Notes</b>						
Revenue						
Expenses						
<b>Community &amp; Civic Affairs</b>						
Revenue						
Expenses						
<b>Rules &amp; Forms Committee</b>						
Revenue						
Expenses						
<b>Orange Book Forms</b>						
Revenue						
Expenses						
<b>Local Liaison</b>						
Revenue						
Expenses						
<b>Uniform Trust Code</b>						
Revenue						
Expenses						
<b>Transfer Deposits</b>						
Revenue						
Expenses						
<b>Admin. Chair</b>						

Colorado Bar Association  
**Trust & Estate**  
 For the Month Ending July 31, 2022

	July	YTD	Budget	Variance	%	Last FY
Revenue						
Expenses						
<b>Estate Planning Handbook</b>						
Revenue						
Expenses						
<b>Admin Council Dinner</b>						
Revenue						
Expenses						
<b>Legislative Liaison</b>						
Revenue						
Expenses						
<b>Internet Editor</b>						
Revenue						
Expenses						
<b>Technology Committee</b>						
Revenue						
Expenses						
<b>Real Estate Liaison</b>						
Revenue						
Expenses						
<b>Green Book</b>						
Revenue						
Expenses						
<b>The Colorado Lawyer</b>						
Revenue						

Colorado Bar Association  
**Trust & Estate**  
 For the Month Ending July 31, 2022

		<u>July</u>	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>	<u>%</u>	<u>Last FY</u>
<b>Expenses</b>							
<b>T&amp;E Diversity Committee</b>							
Revenue							
Expenses							
Judicial Liaison							
Revenue							
Expenses							
<b>Member Vouchers</b>							
Expenses							
<b>T&amp;E Young Lawyer Society</b>							
Revenue							
Expenses							
<b>Beginning Balance</b>	<b>01-3160-31600</b>		<b>\$43,092.16</b>		<b>\$43,092.16</b>	<b>0%</b>	<b>\$37,066.81</b>
<b>Total Revenue All Sources</b>	<b>01-4???-316??</b>	<b>17,880.00</b>	<b>17,880.00</b>		<b>17,880.00</b>	<b>0%</b>	<b>25,995.00</b>
<b>Total Expense All Sources</b>	<b>01-5???-316??</b>	<b>(1,110.38)</b>	<b>(1,110.38)</b>		<b>(1,110.38)</b>	<b>0%</b>	<b>(1,077.96)</b>
<b>Ending Balance</b>		<b>16,769.62</b>	<b>59,861.78</b>		<b>59,861.78</b>	<b>0%</b>	<b>61,983.85</b>

**KIRCH ROUNDS BOWMAN & DEFFENBAUGH PC**  
MEMORANDUM

**TO:** CBA Council of the Trust and Estate Section

**FROM:** Chad Rounds

**RE:** Summary of 08/16/22 CBA Real Estate Section Council Meeting

**DATE:** 08/24/22

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I was unable to attend the CBA Real Estate Section Council ("RESC") meeting on 08/16/22. However, I reviewed the materials for that meeting. The following is my report on matters addressed which the CBA Trust and Estate Section Council ("TESC") might find of interest:

SB22-229 has been signed by the Governor. It became effective on August 11<sup>th</sup>, 2022. It allows for releasing deeds of trust by individuals without presentation of original promissory notes. A new request form for release of deed of trust without production of the original note, reflecting this statutory change, has been created and will be posted on the public trustees' websites. A copy of the form is attached to this memorandum.

The Real Estate Section is forming a Uniform Commercial Code (UCC) task force to provide comments from a real estate perspective to proposed changes to the UCC, approved by the national Uniform Law Commission. The 2022 amendments bring the UCC into the digital age by providing commercial law rules for a new category of transactions: the transfer and leveraging of virtual currencies and certain other digital assets.

Original Note and Deed of Trust Returned to:  
When recorded return to:  
Prepared/Received by:

REQUEST FOR FULL  / PARTIAL

RELEASE OF DEED OF TRUST AND RELEASE BY HOLDER OF THE EVIDENCE OF DEBT WITHOUT PRODUCTION OF EVIDENCE OF DEBT PURSUANT TO § 38-39-102 (1) (a) and (3), COLORADO REVISED STATUTES

\_\_\_\_\_  
Date  
\_\_\_\_\_  
Original Grantor (Borrower)  
\_\_\_\_\_  
Current Address of Original Grantor, Assuming  
 Check here if current address is unknown Party, or Current Owner  
\_\_\_\_\_  
Original Beneficiary (Lender)  
\_\_\_\_\_  
Date of Deed of Trust  
\_\_\_\_\_  
Date of Recording and/or Re-Recording of Deed of Trust  
\_\_\_\_\_  
Recording Information

County Rept. No. and/or Film No. and/or Book/Page No. and/or Torrens Reg. No

TO THE PUBLIC TRUSTEE OF \_\_\_\_\_ COUNTY

(The County of the Public Trustee who is the appropriate grantee to whom the above Deed of Trust should grant an interest in the property described in the Deed of Trust)

PLEASE EXECUTE AND RECORD A RELEASE OF THE DEED OF TRUST DESCRIBED ABOVE. The indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied in regard to the property encumbered by the Deed of Trust as to a full release or, in the event of a partial release, only that portion of the real property described as:

**(IF NO LEGAL DESCRIPTION IS LISTED THIS WILL BE DEEMED A FULL RELEASE.)**

Pursuant to § 38-39-102 (3), Colorado Revised Statutes, in support of this Request for Release of Deed of Trust, the undersigned, as the holder of the evidence of debt secured by the Deed of Trust described above, or as a Title Insurance Company authorized to request the release of a Deed of Trust pursuant to § 38-39-102(3)(c), Colorado Revised Statutes, in lieu of the production or exhibition of the original evidence of debt with this Request for Release, certifies as follows:

1. The purpose of the Deed of Trust has been fully or partially satisfied.
2. The original evidence of debt is not being exhibited or produced with this request for release of Deed of Trust.
3. It is one of the following entities (check applicable box):
  - a.  The holder of the original evidence of debt that is a qualified holder, as specified in § 38-39-102(3)(a), Colorado Revised Statutes, that agrees that it is obligated to indemnify the Public Trustee for any and all damages, costs, liabilities, and reasonable attorney fees incurred as a result of the action of the Public Trustee taken in accordance with this request for release;
  - b.  The holder of the evidence of debt requesting the release of a Deed of Trust without producing or exhibiting the original evidence of debt that delivers to the Public Trustee a corporate surety bond as specified in § 38-39-102(3)(b), Colorado Revised Statutes;
  - c.  A title insurance company licensed in Colorado, as specified in § 38-39-102(3)(c), Colorado Revised Statutes, that agrees that it is obligated to indemnify the Public Trustee pursuant to statute as a result of the action of the Public Trustee taken in accordance with this request for release and that has caused the indebtedness secured by the deed of trust to be satisfied in full, or in the case of a partial release, to the extent required by the holder of the indebtedness; or
  - d.  A holder, as specified in § 38-39-102 (3)(d)(1), Colorado Revised Statutes, that agrees that it is obligated to indemnify the Public Trustee pursuant to statute as a result of the action of the Public Trustee in accordance with this Request for Release and that has caused the indebtedness secured by the Deed of Trust to be satisfied in full, or in the case of a partial release, to the extent required by the holder of the indebtedness. **E-FILE ONLY**

\_\_\_\_\_  
Name and address of the holder of the evidence of debt secured by Deed of Trust (lender) or name and address of the Title Insurance Company authorized to request the release of a Deed of Trust

\_\_\_\_\_  
Name, title, and address of officer, agent, or attorney of the holder of the evidence of debt secured by Deed of Trust (lender)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

State of \_\_\_\_\_, County of \_\_\_\_\_  
The foregoing Request for Release was acknowledged before me on \_\_\_\_\_ (Date)

by\* \_\_\_\_\_ (Notary Seal)  
\*If applicable, insert title of officer and name of current holder

Witness my hand and official seal \_\_\_\_\_  
Notary Public Date Commission Expires \_\_\_\_\_

RELEASE OF DEED OF TRUST

WHEREAS, the Grantor(s) named above, by Deed of Trust, granted certain real property described in the Deed of Trust to the Public Trustee of the County referenced above, in the State of Colorado, to be held in trust to secure the payment of the indebtedness referred to in the Deed of Trust; and

WHEREAS, the indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied according to the written request of the holder of the evidence of debt or Title Insurance Company authorized to request the release of the Deed of Trust,

NOW THEREFORE, in consideration of the premises and the payment of the statutory sum, receipt of which is hereby acknowledged, I, as the Public Trustee in the County named above, do hereby fully and absolutely release, cancel and forever discharge the Deed of Trust or that portion of the real property described above in the Deed of Trust, together with all privileges and appurtenances belonging to the real property.

\_\_\_\_\_  
(Public Trustee use only, use appropriate label)

\_\_\_\_\_  
(Public Trustee's seal)

\_\_\_\_\_  
Public Trustee

\_\_\_\_\_  
(If applicable, Notary Seal)

\_\_\_\_\_  
Deputy Public Trustee

\_\_\_\_\_  
(If applicable, name and address of person creating new legal description as required by § 38-35-106.5, Colorado Revised Statutes.)

## **Statutory Revisions Committee Approved**

§ 15-10-305. Records and certified copies.

### **Colorado Statutes**

#### **Title 15. PROBATE, TRUSTS, AND FIDUCIARIES**

#### **COLORADO PROBATE CODE**

#### **Article 10. General Provisions, Definitions, Jurisdiction**

#### **Part 3. SCOPE, JURISDICTION, AND COURTS**

*Current through 2021 Legislative Session*

#### **§ 15-10-305. Records and certified copies**

The clerk of each court shall keep for each decedent, ward, protected person, or trust under the court's jurisdiction a record of any document which may be filed with the court under this code, including petitions and applications, demands for notices or bonds, trust registrations, and of any orders or responses relating thereto by the registrar or court, and establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information. Upon payment of the fees required by law the clerk must issue certified copies of any probated wills, letters issued to personal representatives, or any other record or paper filed or recorded. Certificates relating to probated wills must indicate whether the decedent was domiciled in this state and whether the probate was formal or informal. Certificates relating to letters must show the date of appointment.

#### **§ 15-10-305.5 LODGED WILLS:**

##### **(1) DEFINITIONS:**

AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

(B) "ELECTRONIC ESTATE PLANNING DOCUMENT THAT IS A WILL" HAS THE MEANING SET FORTH IN SECTION 15-23-102 (8) AND (13).

(C) "ELECTRONIC WILL" HAS THE MEANING SET FORTH IN SECTION 15-12-1502 (3).

(D) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(E) "WILL" MEANS:

(I) AN INSTRUMENT IDENTIFIED IN SECTION 15-10-201 (59);

(II) A COPY OF AN ELECTRONIC ESTATE PLANNING DOCUMENT THAT IS A WILL PREPARED BY THE STATE COURT ADMINISTRATOR AS REQUIRED BY SECTION 15-23-120 (2)(B);

(III) A PAPER COPY OF AN ELECTRONIC WILL THAT IS CERTIFIED BY AN INDIVIDUAL PURSUANT TO SECTION 15-12-1509; AND

(IV) A SEPARATE WRITING OR MEMORANDUM THAT IS CREATED BY THE TESTATOR OF A WILL PURSUANT TO SECTION 15-11-513.

**(2) ACCEPTING A WILL FOR LODGING:** THE CLERK OF A COURT SHALL ACCEPT A WILL THAT IS DELIVERED FOR LODGING PURSUANT TO §15-11-516.

**(3) PRESERVATION OF LODGED WILL:**

(A) THE CLERK OF THE COURT SHALL:

(i) PRESERVE A LODGED WILL IN THE CLERK'S RECORDS; AND

(ii) MAKE AND RETAIN AN ELECTRONIC RECORD OF THE LODGED WILL IN ACCORDANCE WITH RULES ADOPTED BY THE STATE COURT ADMINISTRATOR'S OFFICE.

(B) UPON THE APPLICATION OR PETITION FOR ADMISSION TO PROBATE OF A WILL THAT HAS BEEN LODGED PURSUANT TO THIS SECTION, THE WILL SHALL BE TRANSFERRED TO THE PROBATE CASE WITHOUT FURTHER REQUIREMENTS.

**(4) RETAINING ORIGINAL WILLS:** THE CLERK OF THE COURT SHALL RETAIN AN ORIGINAL LODGED WILL AS FOLLOWS:

(A) IF NO PROCEEDING IS FILED WITH THE COURT TO PROBATE THE WILL, THE CLERK OF THE COURT SHALL RETAIN THE ORIGINAL WILL FOR THREE (3) YEARS AFTER THE DATE THE WILL IS ACCEPTED FOR LODGING PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(B) IF A PROCEEDING IS FILED WITH THE COURT TO PROBATE THE WILL, THE COURT SHALL RETAIN THE ORIGINAL WILL FOR TWO (2) YEARS AFTER THE DATE THAT THE ESTATE IS CLOSED INFORMALLY, FORMALLY, OR BY ORDER OF THE COURT.

**(5) RETURNING OR DESTROYING ORIGINAL WILL:**

UPON EXPIRATION OF THE TIME THAT THE CLERK OF THE COURT MUST RETAIN AN ORIGINAL WILL PURSUANT TO SUBSECTION (4) OF THIS SECTION, IF THE CLERK NO LONGER WISHES TO RETAIN THE ORIGINAL WILL:

(A) THE CLERK SHALL SEND NOTICE IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION TO THE PERSON SPECIFIED BELOW THAT IT WILL NO LONGER RETAIN THE ORIGINAL WILL, AS FOLLOWS:

(i) IF NO PROCEEDING IS FILED WITH THE COURT TO PROBATE THE WILL, RETURN THE ORIGINAL WILL TO THE PARTY WHO DELIVERED THE WILL TO THE COURT.

(ii) IF A PROCEEDING WAS FILED WITH THE COURT TO PROBATE THE WILL, RETURN THE ORIGINAL WILL TO EITHER THE ATTORNEY OF RECORD FOR THE LAST-APPOINTED PERSONAL REPRESENTATIVE OR THE LAST-APPOINTED PERSONAL REPRESENTATIVE OF THE ESTATE; AND

(B) AFTER THE CLERK HAS SENT THE NOTICE,

(i) IF THE PERSON SPECIFIED IN PARAGRAPH (A) OF THIS SUBSECTION TAKES POSSESSION OF THE ORIGINAL WILL, THEN THE PERSON MAY DESTROY THE ORIGINAL WILL.

(ii) IF A PERSON SPECIFIED IN PARAGRAPH (A) OF THIS SUBSECTION DOES NOT TAKE POSSESSION OF THE ORIGINAL WILL WITHIN THIRTY (30) DAYS OF THE NOTIFICATION, THEN THE CLERK MAY DESTROY THE ORIGINAL WILL.

**(6) NOTICE – METHOD AND TIME OF GIVING.**

(A) THE CLERK OF THE COURT SHALL GIVE NOTICE TO THE PERSON ENTITLED TO NOTICE UNDER SUBSECTION (5) BY SENDING A RECORD IN A MANNER REASONABLY SUITABLE UNDER THE CIRCUMSTANCES AND LIKELY TO RESULT IN RECEIPT. PERMISSIBLE METHODS OF SENDING THE RECORD INCLUDE:

- (I) MAILING A LETTER BY CERTIFIED, REGISTERED, OR ORDINARY FIRST-CLASS MAIL ADDRESSED TO THE PERSON'S LAST ADDRESS OF RECORD; AND
- (II) A PROPERLY DIRECTED ELECTRONIC MESSAGE.

(B) NOTICE IS DEEMED GIVEN ON THE DATE OF MAILING OR SENDING.

**(7) AUTHENTICITY OF ELECTRONIC RECORD OF A LODGED WILL:** AN ELECTRONIC RECORD OF A LODGED WILL THAT IS CERTIFIED BY THE CLERK OF THE COURT WHERE THE WILL IS LODGED IS DEEMED TO BE THE ORIGINAL OF THE WILL FOR ALL PURPOSES UNDER COLORADO LAW.

**(8) PRESERVATION OF ELECTRONIC RECORD OF A LODGED WILL:** THE ELECTRONIC RECORD OF A LODGED WILL SHALL BE RETAINED IN THE RECORDS OF THE COURT FOR ONE HUNDRED (100) YEARS FROM THE DATE THAT IT IS LODGED.

**SECTION 3.** In Colorado Revised Statutes, **repeal and reenact, with amendments**, 15-12-304 as follows:

**15-12-304. Informal probate - unavailable in certain cases.**

(1) Applications for informal probate that relate to any of the following must be declined:

- (a) one or more of a known series of testamentary instruments, other than a will and one or more codicils thereto, the latest of which does not expressly revoke the earlier;
- (b) a copy of the decedent's original will certified by the state court administrator pursuant to Article 23 of this Title 15; or
- (c) An electronic record of the decedent's original will certified by the clerk of the court pursuant to CRS 15-10-305.5.

**SECTION 4.** In Colorado Revised Statutes, 15-12-402, **amend** (1) introductory portion, (1)(c), and (2) as follows:

**15-12-402. Formal testacy or appointment proceedings - petition - contents.**

(1) Petitions for formal probate of a will, or for adjudication of intestacy with or without request for appointment of a personal representative, must be directed to the court, request a judicial order after notice and hearing, and contain further statements as indicated in this section. A petition for formal probate of a will must:

- (c) State whether the original of the last will of the decedent, or a copy of the decedent's original will certified by the state court administrator pursuant to article 23 of this title 15, or an electronic record of the decedent's original will certified by the clerk of the court pursuant to CRS 15-10-305.5, is in the possession of the court or accompanies the petition.

(2) If the original will, or a copy of the decedent's original will certified by the state court administrator pursuant to Article 23 of this Title 15, or an electronic record of the decedent's original will certified by the clerk of the court pursuant to CRS 15-10-305.5, is neither in the possession of the court nor accompanies the petition and no authenticated copy of a will probated in another jurisdiction accompanies the petition, the petition also must state the contents of the will and indicate that it is lost, destroyed, or otherwise unavailable.

**Compare: Existing Statutes vs. Statutory Revisions approved changes to 15-10-305, C.R.S. and Related Statutes**

§ 15-10-305. Records and certified copies.

**Colorado Statutes**

**Title 15. PROBATE, TRUSTS, AND FIDUCIARIES**

**COLORADO PROBATE CODE**

**Article 10. General Provisions, Definitions, Jurisdiction**

**Part 3. SCOPE, JURISDICTION, AND COURTS**

*Current through 2021 Legislative Session*

**§ 15-10-305. Records and certified copies**

~~(1)~~ The clerk of each court shall keep for each decedent, ward, protected person, or trust under the court's jurisdiction a record of any document which may be filed with the court under this code, including petitions and applications, demands for notices or bonds, trust registrations, and of any orders or responses relating thereto by the registrar or court, and establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information. Upon payment of the fees required by law the clerk must issue certified copies of any probated wills, letters issued to personal representatives, or any other record or paper filed or recorded. Certificates relating to probated wills must indicate whether the decedent was domiciled in this state and whether the probate was formal or informal. Certificates relating to letters must show the date of appointment.

~~(2) All instruments purporting to be the original wills, upon presentation for probate thereof, shall be recorded by the clerk of the court, in a well-bound book, to be provided by him for that purpose, or photographed, microphotographed, or reproduced on film as a permanent record, and shall remain and be preserved in the office of the clerk of the court. Upon admission of such will to probate, such record shall be sufficient, without again recording the same in the records of the clerk of the court.~~

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REPRESENTATIVE OR THE LAST-APPOINTED PERSONAL REPRESENTATIVE OF THE ESTATE; AND

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(b) a copy of the decedent's original will certified by the state court administrator pursuant to Article 23 of this Title 15; OR

(c) AN ELECTRONIC RECORD OF THE DECEDENT'S ORIGINAL WILL CERTIFIED BY THE CLERK OF THE COURT PURSUANT TO CRS 15-10-305.5.

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(c) State whether the original of the last will of the decedent, or a copy of the decedent's original will certified by the state court administrator pursuant to article 23 of this title 15, OR AN ELECTRONIC RECORD OF THE DECEDENT'S ORIGINAL WILL CERTIFIED BY THE CLERK OF THE COURT PURSUANT TO CRS 15-10-305.5, is in the possession of the court or accompanies the petition.

(2) If the original will, or a copy of the decedent's original will certified by the state court administrator pursuant to Article 23 of this Title 15, OR AN ELECTRONIC RECORD OF THE DECEDENT'S ORIGINAL WILL CERTIFIED BY THE CLERK OF THE COURT PURSUANT TO CRS 15-10-305.5, is neither in the possession of the court nor accompanies the petition and no authenticated copy of a will probated in another jurisdiction accompanies the

petition, the petition also must state the contents of the will and indicate that it is lost, destroyed, or otherwise unavailable.

## **LODGED WILLS- CURRENT STATUTES**

### **§ 15-10-305. Records and certified copies**

(1) The clerk of each court shall keep for each decedent, ward, protected person, or trust under the court's jurisdiction a record of any document which may be filed with the court under this code, including petitions and applications, demands for notices or bonds, trust registrations, and of any orders or responses relating thereto by the registrar or court, and establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information. Upon payment of the fees required by law the clerk must issue certified copies of any probated wills, letters issued to personal representatives, or any other record or paper filed or recorded. Certificates relating to probated wills must indicate whether the decedent was domiciled in this state and whether the probate was formal or informal. Certificates relating to letters must show the date of appointment.

(2) All instruments purporting to be the original wills, upon presentation for probate thereof, shall be recorded by the clerk of the court, in a well-bound book, to be provided by him for that purpose, or photographed, microphotographed, or reproduced on film as a permanent record, and shall remain and be preserved in the office of the clerk of the court. Upon admission of such will to probate, such record shall be sufficient, without again recording the same in the records of the clerk of the court.

### **RELATED STATUTES - LODGED WILLS**

#### **15-12-304. Informal probate - unavailable in certain cases.**

(1) Applications for informal probate that relate to any of the following must be declined:

(a) one or more of a known series of testamentary instruments, other than a will and one or more codicils thereto, the latest of which does not expressly revoke the earlier; ~~or~~

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(1) Petitions for formal probate of a will, or for adjudication of intestacy with or without request for appointment of a personal

representative, must be directed to the court, request a judicial order after notice and hearing, and contain further statements as indicated in this section. A petition for formal probate of a will must:

(c) State whether the original of the last will of the decedent, or a copy of the decedent's original will certified by the state court administrator pursuant to article 23 of this title 15, is in the possession of the court or accompanies the petition.

(2) If the original will, or a copy of the decedent's original will certified by the state court administrator pursuant to Article 23 of this Title 15, is neither in the possession of the court nor accompanies the petition and no authenticated copy of a will probated in another jurisdiction accompanies the petition, the petition also must state the contents of the will and indicate that it is lost, destroyed, or otherwise unavailable.